

restrictions on imports from Liechtenstein should not have a significant effect on consumer prices in the United States.

Placing Liechtenstein on the list of regions where BSE is known to exist also restricts the importation of bones, products made from bone meal, blood meal, meat meal, offal, fat, glands, and serum from ruminants from this region. Little economic effect should be associated with any of these restrictions. Further, the importation into the United States of any pet or animal feed from Liechtenstein that may contain ruminant products is restricted as a result of this action. The United States has imported dog and cat food from Liechtenstein since 1995. In 1997, total imports of dog and cat food into the United States had a value of more than \$149 million; of this, only \$52,191 worth was imported from Liechtenstein. Therefore, we expect that there will be very little or no effect on U.S. consumers as a result of this restriction.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 63 FR 71209–71210 on December 24, 1998.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 23rd day of November 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 98–052–2]

Veterinary Services User Fees; Biosecurity Level Three Laboratory Inspection Fee

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending existing user fees for the inspection for approval of biosecurity level three laboratories. Existing user fees require biosecurity level three laboratories to pay user fees for inspection based on hourly rates. We are replacing the hourly rates for this specific service with a flat rate user fee that would cover all the costs of inspection related to approving a laboratory for handling one defined set of organisms or vectors. We are taking this action in order to ensure that the user fees cover our costs.

EFFECTIVE DATE: January 3, 2000.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations for Veterinary Services, contact Ms. Louise Lothery, Administrative Officer, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737–1231; (301) 734–7517.

For information concerning rate development of the proposed user fee, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Service Enhancement Unit, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.8 lists miscellaneous flat rate user fees. Section 130.9 lists the hourly rate user fees charged for APHIS' import or entry services, including inspection of laboratories within the United States.

On July 14, 1999, we published in the *Federal Register* (64 FR 37903–37905, Docket No. 98–052–1) a proposal to amend the existing user fees for the inspection for approval of biosecurity level three laboratories. Existing user fees require biosecurity level three

laboratories to pay user fees for inspection based on hourly rates. We proposed to replace the hourly rates for this specific service with a flat rate user fee that would cover all the costs of inspection related to approving a laboratory for handling one defined set of organisms or vectors.

We solicited comments concerning our proposal for 60 days ending September 13, 1999. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Prior to the effective date of this rule, APHIS charged user fees for the inspection of biosecurity level three laboratories under the hourly rate user fees contained in § 130.9.

APHIS inspects several laboratories in the United States that conduct biosecurity level three research on high-risk organisms and vectors. Under the hourly rate user fees, laboratories pay an average of \$462 for inspections required to be approved to handle a defined set of organisms or vectors. The average actual cost of providing this service, including the cost of air travel and lodging necessary to inspect certain laboratories, is \$977 per laboratory. APHIS has not been able to recover all costs of inspection associated with approving these laboratories under the hourly rate user fee structure because the regulations only provide for 6 hours of ground travel.

Therefore, we are amending the regulations in § 130.8 by establishing a flat rate user fee of \$977 for this service, which would cover the average cost of inspection related to approving a laboratory to handle one defined set of organisms or vectors. The flat rate user fee will enable all laboratories to know in advance what costs they will incur.

We arrived at the flat rate user fee by using the average of the number of hours required for an APHIS inspector

to complete an inspection, travel costs (including airfare and lodging, when appropriate), per diem, and miscellaneous travel expenses.

Effects on Small Entities

Under Small Business Administration (SBA) guidelines, a biosecurity level three laboratory with less than \$5 million in annual sales is considered a small entity. All of the laboratories we inspect are small entities.

We anticipate that the economic effects of this rule on these laboratories will be minimal. An informal survey of several of the affected laboratories revealed that in some cases inspection costs at laboratories are charged directly to a client if the client requested analysis of the particular organism or vector for which the inspection was undertaken. However, in most cases, laboratories pay for inspections with overhead funds from their operating budget. There are two types of biosecurity level three laboratories that we inspect. Some laboratories are privately owned, for-profit enterprises that charge clients fees to use the laboratory to research biosecurity level three organisms or vectors. These laboratories typically bill their clients for the cost of APHIS' inspection service and, therefore, are not directly affected by the cost of inspections.

Other laboratories are publicly owned and are attached to universities or government agencies. These laboratories typically include anticipated APHIS inspection costs in their yearly budgets. We do not have the data to assess the effect of the rate change on these laboratories. On average, laboratories are inspected twice a year. However, a laboratory working with many different types of organisms could be subject to additional inspections.

In our proposal, we solicited comments on the potential effects of the proposed action on small entities. In particular, we sought data and other information to help us better determine what effects, if any, this rule would on the small entities mentioned above. We received no comments on the proposed rule.

Alternatives Considered

In developing this rule, we considered: (1) Making no changes to our existing method of recovering costs for inspecting biosecurity level three laboratories; (2) charging laboratories the exact costs incurred during each individual inspection, including costs of travel and lodging; or (3) charging a flat rate user fee for the inspection of biosecurity level three laboratories.

We rejected the first alternative because, if we made no changes to the regulations, we would continue to be unable to recover all of the costs associated with the inspection of biosecurity level three laboratories. All costs to APHIS for providing this service must be recovered solely through user fees; there is no other form of funding available to us that would cover this service.

We also rejected the second alternative, in which each laboratory would be charged the exact cost of inspection, including travel and lodging for APHIS personnel. We believe it is unfair to charge certain customers higher fees than others simply because a qualified APHIS inspector may not be stationed nearby. We believe that the fairest method of charging customers for this service is through a flat rate user fee.

This rule contains no new information collection or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we are amending 9 CFR part 130 as follows:

PART 130—USER FEES

1. The authority citation for part 130 continues to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134c, 134d, 134f, 136, and 136a;

31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 130.1, a definition for “biosecurity level three laboratory” is added in alphabetical order to read as follows:

§ 130.1 Definitions.

* * * * *

Biosecurity level three laboratory. A laboratory or production facility that works with foreign or domestic animal disease agents, organisms, or vectors that spread by aerosol route and that have serious or lethal effects, therefore requiring special biocontainment measures.

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3. In § 130.8, paragraph (a), the table is amended by adding a new entry in alphabetical order to read as follows:

§ 130.8 User fees for other services.

(a) * * *

Service	User fee
* * * Inspection for approval of biosecurity level three laboratories. * *	* * * \$977.00 for all costs of inspection related to approving the laboratory for handling one defined set of organisms or vectors. * *

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4. In § 130.9, the introductory text of paragraph (a) is revised to read as follows:

§ 130.9 Hourly user fees for import or entry services.

(a) User fees for import or entry services listed in paragraphs (a)(1) through (a)(5) of this section, except those services covered by flat rate user fees elsewhere in this part, will be calculated at \$56.00 per hour, or \$14.00 per quarter hour, with a minimum fee of \$16.50, for each employee required to perform the service. The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of these user fees in accordance with §§ 130.50 and 130.51.

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Done in Washington, DC, this 29th day of November 1999.

Bobby R. Acord,
Acting Administrator, Animal and Plant Health Inspection Service.
[FR Doc. 99–31371 Filed 12–2–99; 8:45 am]
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